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VIA ECF

The Honorable Pamela K. Chen
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Securities and Exchange Commission v. Xia et al, Case No. 1:21-cv-05350

Dear Judge Chen:

We represent Proposed Intervenor-Plaintiff CTBC Bank Corp. (USA) (“CTBC”) in the above-referenced action and write in reference to the current briefing schedule set forth for CTBC’s motion to intervene. (ECF Nos. 238, 242.) As set forth in CTBC’s papers, prior to filing the pending motion, CTBC conferred with counsel for the SEC and Defendant Richard Xia. (ECF No. 238-2, ¶ 4.) The SEC advised that it does not oppose CTBC’s motion to intervene and Defendant Xia took no position on that motion. (*Id.*)

As set forth in its moving papers, CTBC seeks to intervene in order to file a separate motion to modify the prevailing asset freeze order and to appoint a receiver over its secured collateral for loans extended to Defendant Xia in 2021. (See ECF No. 238-2, ¶¶ 5-6; *see also* ECF Nos. 238-3, 238-4.). In their motion to appoint a receiver, the SEC specifically carves out CTBC’s secured collateral from its proposed receivership, since “CTBC Bank intends to move this Court for the appointment of a separate Receivership that would be limited to those specific units.” (ECF No. 235-1, at 7 n.6.) Therefore, while the SEC and CTBC each seek the appointment of a receiver, each receivership includes different properties and assets currently controlled by Defendant Xia and his related entities.

A briefing schedule for the SEC’s motion for a receiver and CTBC’s motion to intervene, which appears to be unopposed, is already set, based upon the Court’s January 18, 2023 scheduling order. This, however, impacts the timing for CTBC to file, if granted intervention, its motion to modify the prevailing asset freeze order and appoint a receiver, which is intended to accompany the SEC’s motion.



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CTBC respectfully submits that, in view of the fact that no currently represented party intends to oppose CTBC's motion to intervene, the Court should grant its motion to intervene and modify the January 18 scheduling order to permit CTBC to file its separate motion to modify the asset freeze order and appoint a receiver in the time and manner contemplated with respect to the SEC's pending motion.

We thank the Court for its consideration of this matter.

Respectfully submitted,

/s/ John F. Libby
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